



Report to the Board of Supervisors

Prepared by the Maricopa County Planning and Development Department

Commission Hearing Date: April 14, 2011

Board Hearing Date: May 11, 2011

Case #/Title: Z2009063 – Arlington Valley Solar Energy

Agenda Item: 1

Supervisor District: 4

Applicant: Arlington Valley Solar Energy, LLC

Owner: State of Arizona, LSP Arlington Valley LLC, SEP-II, Lorimor Walter Tr, Duke Energy Maricopa, LLC, Arlington Valley Solar Holdings, LLC, and Ward Frank/Judy

Request: Special Use Permit (SUP) for a 125 MW photovoltaic (PV) solar energy generation facility in the Rural-190 zoning district

Site Location: South of Narramore Rd., north of Southern Pacific Trl. and east and west of the 387th Ave. alignment (in the Tonopah / Arlington area)

Site Size: 1,433 acres

Density: N/A

County Island Status: N/A

County Plan: Industrial - In Concert

Municipal Plan: N/A

Municipal Comments: N/A

Support/Opposition: Five (5) items of support/No known opposition

Existing On-Site and Adjacent Zoning and Land Use:

On-site	Rural-190 / vacant, revegetated desert
North:	Rural-190, AVE SUP (Z2000013), & MSG SUP (Z2000071) SUPs / Combined Cycle power plants, transmission lines, vacant natural desert
South:	Rural-190 / Vacant natural desert, Centennial Wash, Southern Pacific Trl & farmland
East:	Rural-190 / Vacant natural desert
West:	Rural-190 & Mesquite Solar SUP (Z2009022)/ Construction for Solar Energy Generation Facility & vacant natural desert

Staff

Recommendation:

Staff recommends the Commission motion for **approval** with stipulations "a" – "aa" with revisions to "c" and "aa" of **Z2008063** for the following reasons:

- Reviewing agencies have no objections.
- There is no known public opposition.
- The proposal supports renewable energy goals.
- The proposal is in concert with the Maricopa County Comprehensive Plan and the Maricopa County Old U.S. Highway 80 Area Plan.

Commission

Recommendation:

By a 7-0 vote recommended **approval** to the May 11, 2011 BOS hearing subject to stipulations "a" – "aa" as follows:

- a. Development of the site shall be in substantial compliance with the Site Plan entitled "Arlington Valley Solar Energy, LLC", consisting of sixteen (16) full-size sheets, stamped received March 25, 2011 except as modified by the following stipulations.
- b. Development of the site shall be in general conformance with the Narrative Report entitled "Arlington Valley Solar Energy", consisting of a bound document, 35 pages with figures and appendices, dated revised March 2011 and stamped received March 25, 2011 except as modified by the following stipulations.
- c. Any special events as described in the narrative report shall be limited to 30 people. The ground breaking event will exceed this maximum number; however, the developer will make provisions for off-site parking and shuttle service.
- d. Prior to zoning clearance for any permit, legal access documentation shall be provided for both the main and emergency access points.
- e. To the extent possible, the applicant shall accommodate Maricopa County's regional trail system which traverses their site generally along the 387th Ave. alignment adjacent to Winters Wash as may be deemed necessary by Maricopa County Parks.

- f. Any existing vegetation along 395th Avenue shall be maintained through construction and revegetation efforts shall be generally consistent with the vegetation along the west side of said alignment.
- g. Revegetation along and within Winters Wash shall be consistent with the US Army Corps of Engineers permitting requirements. In the event that this permit is not pursued, revegetation along Winters Wash shall be consistent with the Arlington Valley Energy Land Management Plan approved with CPA200004.
- h. All trees shall be double-staked when installed.
- i. All transformers, back-flow prevention devices, utility boxes and all other utility related ground mounted equipment shall be painted to complement the development and shall be screened with landscape material where possible. All HVAC units shall be ground-mounted or screened with a continuous parapet.
- j. Dedication of additional rights-of-way to bring the total half-width dedication to 65' for 395th Avenue shall occur within six (6) months of approval of this request by the Board of Supervisors, and prior to zoning clearance. All such dedications shall be in fee and free of all liens and encumbrances. Prior to acceptance of such dedication, the applicant shall provide the County an owner's title insurance policy issued to the County, the Maricopa County Department of Transportation (MCDOT) environmental checklist and any and all other requirements as set forth in the "MCDOT Right-Of-Way Dedications Reference Guide". Until Maricopa County has accepted said dedication, all responsibilities, including but not limited to maintenance and repair for the property to be dedicated shall be that of the applicant.
- k. Prior to zoning clearance, the applicant/property owner shall obtain the necessary encroachment permits from the Maricopa County Department of Transportation (MCDOT) for landscaping or other improvements in the right-of-way.
- l. The following Maricopa County Environmental Services (MCESD) stipulations shall be met:
 - Prior to zoning clearance for issuance of the first facility building permit, all required permits for any required drinking water, sanitary and industrial wastewater permits by MCESD and Arizona Department of Environmental Quality (ADEQ) must be submitted to the appropriate agency.
 - No facility operation can begin prior to the approval of the above permits (issuance of an Approval to Construct) and a construction approval (Approval of Construction) of the required facilities signed by MCESD.
- m. All outdoor lighting shall conform to the Maricopa County Zoning Ordinance.
- n. Development of the site shall be in compliance with all applicable Maricopa County Air Quality rules and regulations.

- o. An archeological survey shall be submitted to and approved by the Arizona State Historic Preservation Office prior to issuance of a grading permit. The applicant must contact the State office prior to initiating disturbance of the site. The applicant shall provide the Planning and Development Department with written proof of compliance with this stipulation prior to zoning clearance for any building permits.
- p. The following Maricopa County Drainage stipulations shall be met:
- All development and engineering design shall be in conformance with the Drainage Regulation and current engineering policies, standards and best practices at the time of application for construction.
 - Drainage review of planning and/or zoning cases is for conceptual design only and does not represent final design approval nor shall it entitle applicants to future designs that are not in conformance with the Drainage Regulation and design policies and standards.
 - All modeling and analysis shall be considered conceptual and shall be refined to a level appropriate for design with the request for construction permits.
 - Yearly status reports shall be required that shall demonstrate that the retention areas have been inspected and maintained as listed in the *Operations and Maintenance of Drainage Systems* section of the latest drainage report and with any additional information that Maricopa County may require to demonstrate that the projects drainage management system is in conformance with regulatory development requirements.
 - The requirements for status reports shall be in addition to the requirements for such reports determined by the Planning Division or other regulatory agencies.
 - With all applications of construction permits, final construction details shall be provided for all requested construction activity for which details were not requested a part of the entitlement case. This shall include, but not be limited to, fencing, signage, erosion protection, channel armoring and drywells
 - All construction activity shall be within the Special Use Permit (SUP) limits.
 - A schedule of construction shall be submitted with all phases of construction permit applications.
 - At time of construction permit application, all phases shall be demonstrated to meet regulatory development requirements independently from future phases or for prior phases not completed at time of final inspection.

- q. As part of the building permit process, a Floodplain Use Permit will need to be obtained from the Floodplain Management and Services Division of the Flood Control District.
- r. Development and use of the site shall comply with requirements for fire protection measures as deemed necessary by the Buckeye Valley Fire District. Prior to issuance of zoning clearance, the applicant shall seek review and comment from the applicable fire protection agency, and shall provide written confirmation that the site will be developed in accordance with their requirements.
- s. The applicant or his successor shall obtain approval of any development plans from the applicable Fire Marshall prior to any construction.
- t. This Special Use Permit shall expire forty (40) years from the date of approval by the Board of Supervisors, or upon expiration of the lease to the applicant, or upon termination of the use, whichever occurs first. All of the site improvements shall be removed within 90 days of such termination or expiration.
- u. The applicant shall submit an annual written report from the date of approval by the Board of Supervisors. The status report shall be reviewed by staff to determine whether the Special Use Permit remains in compliance with the approved stipulations including maintenance of drainage facilities.
- v. Amendments to the site plan and narrative report shall be processed as a revised application in accordance with Maricopa County Zoning Ordinance Article 304.9.
- w. Noncompliance with the conditions of approval will be treated as a violation in accordance with the Maricopa County Zoning Ordinance. Further, noncompliance of the conditions of approval may be grounds for the Planning and Zoning Commission to take action in accordance with Chapter 3 (Conditional Zoning).
- x. Non-compliance with the regulations administered by the Maricopa County Environmental Services Department, Maricopa County Department of Transportation, Drainage Review Division, Planning and Development Department, or the Flood Control District of Maricopa County may be grounds for initiating a revocation of this Special Use Permit as set forth in the Maricopa County Zoning Ordinance.
- y. The granting of this change in use of the property has been at the request of the applicant, with the consent of the landowner. The granting of this approval is temporary and allows the property to enjoy uses in excess of those permitted by the zoning existing on the date of application, subject to conditions and stipulations. In the event of the failure to comply with any condition or stipulation, and at the time of expiration of the Special Use Permit, the property shall revert to the zoning that existed on the date of application. It is, therefore, stipulated and agreed that either revocation due to the failure to comply with any conditions or stipulations, or the expiration of the Special Use Permit, does

not reduce any rights that existed on the date of application to use, divide, sell or possess the property and that there would be no diminution in value of the property from the value it held on the date of application due to such revocation or expiration of the Special Use Permit. The Special Use Permit enhances the value of the property above its value as of the date the Special Use Permit is granted and reverting to the prior zoning results in the same value of the property as if the Special Use Permit had never been granted.

- z. If a building permit for the facility has not been issued within three (3) years from the date of Special Use Permit (SUP) approval, this SUP and the related Comprehensive Plan Amendments (CPA200808, CPA200916, CPA200917, and CPA200919) will be scheduled for public hearing by the Maricopa County Board of Supervisors, upon recommendation by the Maricopa Planning and Zoning Commission, to consider reverting the zoning to Rural-190 and the related land use designations to Open Space and Rural respectively. Additionally, in the event of the reversion, the Land Management Plan associated with CPA200004 shall be implemented.
- aa. Prior to any ground disturbance activities and prior to the issuance of any construction permits, the developer shall provide assurance in an amount and form acceptable to the Maricopa County Planning & Development Department sufficient to restore or stabilize the entire site in the event the project is abandoned, expires, or otherwise becomes defunct.

**Additional
Comments:**

N/A

Presented by: Terri S. Hogan, AICP, Principal Planner
Reviewed by: Darren V. Gerard, AICP, Deputy Director

Attachments: April 14, 2011 P&Z Minutes (not available at time of printing)
April 14, 2011 P&Z Packet (145pages)